

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ANDREW RIGGLE,

Plaintiff,

vs.

ZESTO SHOPPE, CHRISTOPHER  
MINTURN, AND DOES 1-5,

Defendants.

8:15-CV-410

ORDER TO SHOW CAUSE

This matter is before the Court on the plaintiff's motion for default judgment. "[An] entry of default under [Fed. R. Civ. P.] 55(a) must precede grant of a default judgment under Rule 55(b)." *Johnson v. Dayton Elec. Mfg. Co.*, 140 F.3d 781, 783 (8th Cir. 1998) (internal citation omitted). A default may be entered under Rule 55(a) "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise." Rule 55(a).

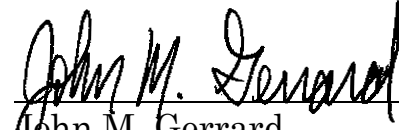
In this case, the plaintiff has not yet established that each defendant has been properly served with a summons and copy of the complaint. First, the plaintiff has filed a proof of service showing that a summons and copy of the complaint was sent by certified mail to Zesto Shoppe c/o TJ Group Investments, LLC, and signed for by a Michelle Jansen. Filing 8. But the plaintiff has offered no affidavit or other proof demonstrating that TJ Group Investments, LLC is the proper entity to receive service on behalf of Zesto Shoppe, or that Michelle Jansen is an agent authorized by appointment or law to accept service on behalf of Zesto Shoppe. Second, the plaintiff has filed a proof of service purporting to show that "Zesto/Christopher Minturn" was served by certified mail. Filing 8. But the plaintiff has neither attached the return receipt, nor demonstrated that the summons and complaint were sent to an appropriate address such that the service was reasonably calculated to apprise Minturn or Zesto Shoppe of the pending action.

IT IS ORDERED:

1. The plaintiff shall show cause on or before May 16, 2016 as to why his motion for default judgment should not be denied for ineffective service of process.

Dated this 3rd day of May, 2016.

BY THE COURT:

  
\_\_\_\_\_  
John M. Gerrard  
United States District Judge